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E.O. 12958: N/A
TAGS: ETRD PGOV EFIS EIND IN CE BR EC TH CH VM
SUBJECT: SMALL INDIAN SHRIMP EXPORTERS SETTLE WITH
SOUTHERN SHRIMP ALLIANCE

REF: (A)05 CHENNAI 0121, (B)O4 CHENNAI 0944

¶1. (SBU) SUMMARY: 24 Indian shrimp exporters have reached agreement with the Southern Shrimp Alliance (SSA) to remove their names from the Department of Commerce's review list for imposition of dumping duties. This continues the trend that began in May when exporters from Thailand, Vietnam and Ecuador began making agreements with SSA. Fears about the sampling method to be used for selection of companies to be part of the review process and the possibility of the imposition of penalty duties for non-response by relatively anonymous trader-exporters forced manufacture exporters to settle. Four large manufacture exporters who account for 64 percent of Indian exports refused to settle with SSA, however. With the withdrawal of the 24 exporters from the review, Indian industry sources believe the Department of Commerce will be forced to continue to use the traditional "largest by volume" methodology in its review rather than the "sampling" approach which they fear. END SUMMARY

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24 INDIAN COMPANIES OPT FOR SETTLEMENT
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¶2. (SBU) 24 Indian shrimp exporters effectively removed themselves from the Department of Commerce review list for imposition of dumping duties by entering into settlements with the Southern Shrimp Alliance (SSA) (Refs A and B). These companies form part of a list of 60 companies identified by the Department of Commerce for review. According to Elias Sait, Secretary General, Seafood Exporters Association of India (SEAI), about 20 companies on that list were trader-exporters, i.e. companies that do not have their own processing facilities as contrasted with manufacture exporters who perform their own processing. Sait said that these companies do not have permanent addresses and have not responded to Department of Commerce queries. Accordingly, they were assessed penalty duties of over 100%. SEAI fears that should one of these companies be selected in the sample used by the Department of Commerce, the duty level might rise further above the currently high levels. Sait told Post that in a DVC with

Department of Commerce officials held on June 10, 2006 verbal assurances were given that the companies which are assigned penalty duties would be kept out of the sample. No written guarantee was provided, however, and Sait told Post that lack of confidence on that issue forced the 24 to settle.

LARGE EXPORTERS REFUSE TO SETTLE

¶3. (SBU) Four of the largest Indian shrimp manufacturers, Hindustan Lever Limited, Liberty Group, Falcon Marine Exports and ITC Limited, decided against settling with SSA. These companies account for 64 percent of the shrimp exported to the U.S. from India. According to the trade advisor to SEAI, these companies declined to settle because they feel that a sampling approach by the Department of Commerce is a near certainty in the next review which will take place in 2008. They believe that the current review must now be completed using a "largest by volume" approach because so few companies remain to be reviewed. The largest by volume method offers them the best chance of achieving a reduction in their duty rates from the current 15.36 percent in the case of HLL and 10.17 percent in the case of the other three companies.

SETTLEMENT HELPS SSA MEET ITS LEGAL COSTS

¶4. (SBU) The inability of the SSA to pay expensive legal costs associated with the case was another reason that

they encouraged settlements, according to SEAI. SEAI's Elias Sait told Post that Hurricane Katrina decimated the shrimp fleets in the Gulf of Mexico, diminishing SSA's ability to collect fees from member companies. Sait says that Dewey Ballantine, legal counsel for SSA, drafted an agreement for each of the companies listed in the review document. According to Sait, Ballantine demanded a $10,000 payment from each exporting company merely to enter into negotiations on removal from the list. Ballantine explained that the $10,000 fee was to meet legal costs.

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SETTLEMENTS MAY MAKE DEVI SEAFOODS A MAJOR PLAYER
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¶5. (SBU) COMMENT: The recent round of settlements might well turn Devi Seafoods, formerly an also-ran among Indian exporters, into a major player. Devi has a 4.94 percent duty compared with the 10.17 percent rate that many other exporters face. The SEAI trade advisor told Post that exporters might now route their exports through Devi to derive the benefits of the company's lower duty. This approach, he believes, could hurt U.S. importers in the long run. END COMMENT

¶6. (U) This message was coordinated with Embassy New Delhi.

HOPPER